

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

UNITED STATES DISTRICT COURT

for the

District of Oregon
Portland Division

Case No.

3:24-cv-1153 CL

(to be filled in by the Clerk's Office)

DANIEL ROSS MARTIN

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

D.R.C.I., SUPERINTENDANT
SUNDQUIST, MS. CARTER, DRCT
MEDICAL DEPT., et. al.

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

All other names by which you have been known:

ID Number

Current Institution

Address

Daniel Ross Martin

14465342

Deer Ridge Correctional Institution
3920 E. Ashwood rd.

Madras

City

OR.

97741

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Superintendent Sundquist

Superintendent D.R.C.I.

O.D.O.C. / D.R.C.I.

3920 E. Ashwood Rd.

Madras

City

OR.

97741

Zip Code

Individual capacity

Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

Ms. Carter

D.R.C.I Medical Dept. Manager

Deer Ridge Correctional Institution
3920 E Ashwood rd.

Madras

City

OR.

97741

Zip Code

Individual capacity

Official capacity

N/A

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

Pretrial detainee
 Civilly committed detainee
 Immigration detainee
 Convicted and sentenced state prisoner
 Convicted and sentenced federal prisoner
 Other (*explain*)

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

N/A

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Snake River Correctional Institution 12-23-2020

C. What date and approximate time did the events giving rise to your claim(s) occur?

12-23-2020 A.M.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?) I have been seeking adequate care for several years now for my back injury. Due to lack of care and procrastination of behalf of Medical Staff, my injury has become more severe. As a result I have been left in constant pain and discomfort.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Worsening of pain and multiple refusals of M.R.I and outside evaluations.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

If needed I would like surgery on my back to correct and relieve the pain I have been experiencing over the last several years. Punitive damages in the amount of \$ 350,000 for pain and suffering, mental duress, inability to gain job skills i.e. construction program, welding program etc.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act (“PLRA”), 42 U.S.C. § 1997e(a), requires that “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.”

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes

No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

S.R.C.I. , D.R.C.I

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

Yes

No

Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

Yes

No

Do not know

If yes, which claim(s)?

M.R.T. , Minimal pain managment

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

Yes DRCM-2023-03-050

No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

D.R.C.I.

2. What did you claim in your grievance?

2 years is long enough for
D.R.C.I. (D.O.C.) to fix my back issues.

3. What was the result, if any?

After appox 1-year I was given
an M.R.I.
Minimal pain management.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I appealed grievance all the way to the Tort
Claim which was denied.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

See attached

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

Yes

No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes
 No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

_____ N/A

3. Docket or index number

_____ N/A

4. Name of Judge assigned to your case

_____ N/A

5. Approximate date of filing lawsuit

_____ N/A

6. Is the case still pending?

Yes
 No

If no, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

_____ N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 6 - 13 - 24

Signature of Plaintiff

Daniel R. Martin

Printed Name of Plaintiff

Daniel R. Martin

Prison Identification #

14465342

Prison Address

3920 E. Ashwood rd.

Madras

City

OR

97741

State

Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address



Oregon Department of Corrections (ODOC)

DRCI Minimum

Grievance - Accepted

To: Martin, Daniel Ross **SID #:** 14465342 **Cell:** DRCM:B122B
From: Ybarra, J **Date:** 03/20/2023

Re: Medical# DRCM_2023_03_050

Your grievance was accepted and sent for a response. You should expect a response within 35 days from the date of this notice. If you do not receive a response within 35 days contact your institutions Grievance Coordinator.

If you have any questions regarding your grievance, please refer to the Department of Corrections Administrative Rule "Grievance Review System" tab #109 located in the legal library or kyle your institution Grievance/Discrimination Complaint Coordinator.



Oregon Department of Corrections (ODOC)

DRCI Minimum

Initial Appeal - Accepted

To: Martin, Daniel Ross
From: Ybarra, J

SID #: 14465342
Date: 05/04/2023

Cell: DRCM:B210B

Re: Medical# DRCM_2023_03_050A

Your initial grievance appeal was accepted and sent for response. You should expect a response within 35 days from the date of this notice. If you do not receive a response within 35 days contact your institutions Grievance Coordinator.

If you have any questions regarding your initial grievance appeal, please refer to the Department of Corrections Administrative Rule "Grievance Review System" tab #109 located in the legal library or kytic your institution Grievance Coordinator.



Oregon Department of Corrections (ODOC)

DRCI Minimum

Final Appeal - Accepted

To: Martin, Daniel Ross
From: Ybarra, J

SID #: 14465342
Date: 06/24/2023

Cell: DRCM:B210B

Re: Medical# DRCM_2023_03_050A

Your final grievance appeal was accepted and sent for response. You should expect a response within 35 days from the date of this notice. If you do not receive a response within 35 days contact your institutions Grievance Coordinator.

If you have any questions regarding your final grievance appeal, please refer to the Department of Corrections Administrative Rule "Grievance Review System" tab #109 located in the legal library or kytic your institution Grievance Coordinator.

B201B



Oregon

Tina Kotek, Governor

Department of Corrections

Health Services Division

3723 Fairview Industrial Drive SE, Ste 200

Salem, OR 97302

(503) 378-5593

Fax (503) 378-5597

May 25, 2023

Daniel Martin SID# 14465342
Deer Ridge Correctional Institution
3920 East Ashwood Rd.
Madras, OR 97741

RE: Grievance Appeal DRCM-2023-03-050A

Dear AIC Martin:

This letter is in response to the above referenced grievance appeal concerning your spine.

On May 10, 2023, you had an appointment with a provider regarding continued low back pain. Your neuro exam was unremarkable and showed no focal neurological deficits. It was explained to you that an MRI is not indicated at this time.

You received a medication change for pain management and have a follow up appointment scheduled.

Health Services is committed to providing care that is respectful, compassionate, objective, and non-judgmental. The best way for you to achieve your healthcare goals is to continue working with the Health Services staff. Please feel free to communicate your medical needs with the healthcare staff.

Sincerely,

WR

Warren Roberts, M.D., F.A.A.N.S
Medical Director

WR/bc

CC: J. Ybarra, Grievance Coordinator, DRCI

SENT

JUN 05 2023

DRCI GRIEVANCE OFFICE

B210B



Oregon

Tina Kotek, Governor

Department of Corrections

Health Services Division

3723 Fairview Industrial Drive SE, Ste 200

Salem, OR 97302

(503) 378-5593

Fax (503) 378-5597

July 7, 2023

Daniel Martin SID# 14465342
Deer Ridge Correctional Institution
3920 East Ashwood Rd.
Madras, OR 97741

RE: Grievance Appeal DRCM-2023-03-050AA

Dear AIC Martin:

This letter is in response to the above referenced grievance appeal concerning your spine.

I have reviewed your second grievance appeal, and I support the medical opinion of Dr. Warren Roberts, Chief Medical Director.

On June 22, 2023, you were evaluated by your provider. A request for a lumbar MRI was presented to the Therapeutic Level of Care (TLC) committee on June 27, 2023, and it was not approved. TLC recommended to continue following you clinically.

You are scheduled for a follow up with your provider regarding your low back pain. Please discuss any concerns you may have at your visit.

Health Services is committed to providing care that is respectful, compassionate, objective, and non-judgmental. The best way for you to achieve your healthcare goals is to continue working with the Health Services staff. Please feel free to communicate your medical needs with the healthcare staff.

Thank you for addressing your concerns appropriately. This concludes the grievance review process for this matter.

Sincerely,

J. Bugher
Assistant Director, Health Services

WR/bc

CC: J. Ybarra, Grievance Coordinator, DRCI

SENT

JUL 17 2023

DRCI GRIEVANCE OFFICE



GRIEVANCE FORM

Name: Martin Daniel R. SID# 14465342 Cell/Block/Bunk # B122B
 Last First Initial

Whom are you grieving: Ms. Carter, Medical dept., et.al.

Please provide the date/time of incident giving rise to grievance: March 4 2023

List in detail all the reasons for your grievance. (What is the problem? When did it happen – date/time/place?) Attach copies of any documents or any material(s), which support your grievance, including the names of any persons you think should be questioned.

On March 4th 2023 I received confirmation that I have been scheduled to see a provider. thru use of a CD 1738 9/2021 communication form. As of today 3-16-23 I have not been seen by anyone regarding my back pain.

I have received an X-ray which of course is "normal" (see att.) My current Physical therapist suggested that I need an MRI done to determine if there is any nerve damage. Dr Beamer said he uses a conservative medical management system. I have been given Meloxicam for inflammation and pain mangmt, which does very little. I am in constant pain and have been in pain for the past 2 years which is progressively getting worse. I feel 2 years is

Describe what action you want taken to resolve the grievance. (How can the problem be solved?)

I would like the recommended MRI and if Surgery is needed I would like back surgery

3-16-23

Date

Signature

Receiving Facility (If not processing facility)	Received at Processing Facility	Accepted/Denied/RFC	Accepted/Denied/RFC
Date Stamp	RECEIVED MAR 13 2023 DRCI GRIEVANCE OFFICE	ACCEPTED MAR 20 2023 DRCI GRIEVANCE OFFICE	Date Stamp
	Date Stamp		Date Stamp



GRIEVANCE FORM

Name: Martin Daniel R SID# 14465342 Cell/Block/Bunk # B122 B
 Last First Initial

Whom are you grieving: Ms Carter, Medical dept. et. al.

Please provide the date/time of incident giving rise to grievance: March 4 2023

List in detail all the reasons for your grievance. (What is the problem? When did it happen – date/time/place?) Attach copies of any documents or any material(s), which support your grievance, including the names of any persons you think should be questioned.

long enough for DOC to address and fix my back issues
By avoiding my back pain and disregarding the
recommendations made by DOC, Physical Therapist, I feel
the DRCI Medical Dept. have violated DOC Policy 20.1.3
Code of Conduct III, as well as the D.O.C. code of ethics
particularly the final paragraph which states in part "I
acknowledge that I have been selected for a position of
public trust and I will constantly strive to be worthy of
that trust and to be true to the mission and values of
the Department of Corrections"

In accordance with OAR 291-109-0140 1), B, (d)

This is an obvious oversight.

Describe what action you want taken to resolve the grievance. (How can the problem be solved?)

I would like the recommended MRI and if surgery
is needed I would like my back surgery

3-16-23

Date

Signature

Daniel Martin

Receiving Facility (If not processing facility)
Date Stamp

Received at Processing Facility
RECEIVED
MAR 13 2023
DRCI GRIEVANCE OFFICE
Date Stamp

Accepted/Denied/RFC
ACCEPTED
MAR 20 2023
DRCI GRIEVANCE OFFICE
Date Stamp

Accepted/Denied/RFC
Date Stamp

GRIEVANCE APPEAL FORM

Name: Martin Daniel R SID# 14465342 Cell/Block/Bunk # B210B
Last First Initial

List in detail all the reasons you disagree with the original grievance response or initial appeal response. (For the initial appeal, attach original grievance form and staff response. For the final appeal, attach the initial appeal form and response as well as the original grievance and response.)

Your response to my grievance # DRCM - 2023 -03-050 in part "I have scheduled you for an appointment with your primary care provider for follow up and to consider an MRI"
I have not yet seen a provider.
I have not yet received notice of approval or denial for the MRI of my lower back.

Describe what action you want taken to resolve the grievance appeal if different from original grievance submission.

The recommended MRI!

Back Surgery if needed!

Compensation of some form!

5-3-23

Date

Daniel Martin

Signature

<u>Receiving Facility</u> (If not processing facility)
Date Stamp

<u>Received at Processing Facility</u>
RECEIVED
MAY 04 2023
DRCI GRIEVANCE OFFICE
Date Stamp

<u>Accepted/Denied/RFC</u>
ACCEPTED
MAY 04 2023
DRCI GRIEVANCE OFFICE
Date Stamp

<u>Accepted/Denied/RFC</u>
Date Stamp

GRIEVANCE APPEAL FORM

Name: Martin Daniel R. 14465342 B122B
 Last First Initial SID# Cell/Block/Bunk #

List in detail all the reasons you disagree with the original grievance response or initial appeal response. (For the initial appeal, attach original grievance form and staff response. For the final appeal, attach the initial appeal form and response as well as the original grievance and response.)

I had my grievance accepted on March 20 2023 and the response was sent on April 4, 2023. In the response Nurse Manager Bailey stated in Part "I have scheduled you for an appointment with your primary care provider for followup and to consider an MRI" On the same day I received a denial for an MRI (R) groin (see attached) My problem is not my groin it is in my Back. My original Grievance # DRCM - 2023-03-050 states my condition, the several years I've been trying to get my back fixed and the only thing I ask for was "The recommended MRI, and if Surgery is needed I would like Back Surgery. Nowhere is there a

Describe what action you want taken to resolve the grievance appeal if different from original grievance submission.

The recommended MRI!

Back Surgery if needed!

Compensation of Some Form!

4-18-2023

Date

Daniel R. Martin

Signature

<u>Receiving Facility</u> (If not processing facility)
Date Stamp

<u>Received at Processing Facility</u>
RECEIVED
APR 24 2023
DRCI GRIEVANCE OFFICE
Date Stamp

<u>Accepted/Denied/RFC</u>
Returned For Correction
MAY 01 2023
DRCI GRIEVANCE OFFICE
Date Stamp

<u>Accepted/Denied/RFC</u>
Date Stamp

GRIEVANCE APPEAL FORM

Name: Martin Daniel R.
Last First Initial

14465342

Initial

SID#

B 122B

Cell/Block/Bunk #

List in detail all the reasons you disagree with the original grievance response or initial appeal response. (For the initial appeal, attach original grievance form and staff response. For the final appeal, attach the initial appeal form and response as well as the original grievance and response.)

mention of a grain problem

Describe what action you want taken to resolve the grievance appeal if different from original grievance submission.

The recommended MRI

Back Surgery if needed!

Compensation of some form!

4-18-2023

Date

Daniel R. Martin

Signature

Receiving Facility
(If not processing facility)

Received at Processing Facility
RECEIVED
JUL 24 1983
DRCI GRIEVANCE OFFICE
Date Stamp

Accepted/Denied/RFC
Returned For Correction

MAY 01 2023

DRCI GRIEVANCE OFFICE
Date Stamp

Accepted/Denied/RFC

GRIEVANCE APPEAL FORM

Name: Martin Daniel R. 14465342 B210B
 Last First Initial SID# Cell/Block/Bunk #

List in detail all the reasons you disagree with the original grievance response or initial appeal response. (For the initial appeal, attach original grievance form and staff response. For the final appeal, attach the initial appeal form and response as well as the original grievance and response.)

In regards to GA# 2023-03-050A

The response in part "Your Neuro Exam was unremarkable and showed no Focal Neurological defects"

First: I was never given a "neuro Exam" I was given an X-Ray

Second: Focal Neurological defects do not appear in a standard X-Ray

It is apparent to me that DRCI medical is willfully and purposefully acting in a negligent manner to offer me an MRI in order to determine whether or not I in fact do or do not have Nerve damage in my lower back

Describe what action you want taken to resolve the grievance appeal if different from original grievance submission.

1. MRI on lower back
2. Lower back Surgically repaired if needed
3. Compensation for ongoing pain and suffering

6-11-23

Date

Daniel Martin

Signature

<u>Receiving Facility</u> (If not processing facility)
Date Stamp

<u>Received at Processing Facility</u>
RECEIVED
JUN 12 2023
DRCI GRIEVANCE OFFICE
Date Stamp

<u>Accepted/Denied/RFC</u>
ACCEPTED
JUN 24 2023
DRCI GRIEVANCE OFFICE
Date Stamp

<u>Accepted/Denied/RFC</u>
Date Stamp



Oregon

Tina Kotek, Governor

January 31, 2024

Department of Administrative Services
Enterprise Goods & Services
Risk Management
PO Box 12009
Salem, OR 97309-0009
Telephone: 503-373-7475
Fax: 503-373-7337

DANIEL MARTIN | SID# 14465342
DRCI
3920 E ASHWOOD RD
MADRAS OREGON 97741

Claimant: Daniel Martin
Claim Number: L18565301
Date of Loss: 7/1/2023
Re: Denial

Dear Daniel Martin,

We have completed a review of your tort claim allegations as set forth in your letter dated July 26, 2023 with management level staff from Department Of Corrections.

After reviewing the available information submitted, we must respectfully deny your claim. With this notice of denial, this ends the review process through our office and we will be closing our file.

Should you choose to pursue litigation related to your allegation, proper service of any litigation filings should be served upon

Oregon Department of Justice
Trial Division
1162 Court Street NE
Salem OR 97310

Respectfully,

Custody Claims Unit